

**COMPLAINT INVESTIGATION SUMMARY**

<b>COMPLAINT NUMBER:</b>	<b>1638.00</b>
<b>COMPLAINT INVESTIGATOR:</b>	<b>Steve Starbuck</b>
<b>DATE OF COMPLAINT:</b>	<b>October 16, 2000</b>
<b>DATE OF REPORT:</b>	<b>November 13, 2000</b>
<b>REQUEST FOR RECONSIDERATION:</b>	<b>no</b>
<b>DATE OF CLOSURE:</b>	<b>December 27, 2000</b>

**COMPLAINT ISSUES:**

Whether the New Albany-Floyd County Consolidated Schools violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written.

511 IAC 7-27-4(a)(4) with regard to the school's alleged failure to convene a case conference committee (CCC) meeting when considering or proposing a change in the student's placement.

511 IAC 7-27-5(d) with regard to the school's alleged failure to obtain parental consent prior to changing a student's placement.

511 IAC 7-21-3(c) with regard to the school's alleged failure to provide the student with an instructional day of the same length as that provided to other secondary students without disabilities.

During the course of the investigation, an additional issue was identified, which is:

511 IAC 7-27-3(a)(3) with regard to the school's alleged failure to include a general education teacher as a participant at the CCC meeting convened on October 31, 2000.

**FINDINGS OF FACT:**

1. At the time the complaint was filed, the Student was 17 years old. Five days later, the Student turned 18. The Student is eligible for special education and related services as a student with a mild mental disability. The Student's sister (the Sister) obtained guardianship of the Student during his minority. The Student resides with a caretaker (the Caretaker). Subsequent to the Student's 18<sup>th</sup> birthday, the Sister submitted to the Division a notarized document stating that the Caretaker had the authority to make educational and medical decisions.
2. Despite repeated attempts to obtain information from the Sister and the Caretaker, the Sister failed to provide any details regarding the allegation that the Student's IEP was not being implemented as written. The Caretaker was unaware of any problems in implementing the IEP. The Student's IEP, dated April 19, 2000, and amended on October 2 and October 31, 2000, have been implemented as written.
3. The case conference committee (CCC) was scheduled to convene on October 2, 2000, to review the

Student's progress. The Caretaker advised school staff that day that she would be unable to attend the CCC meeting, but did not request that the meeting be rescheduled. The CCC convened in the Caretaker's absence and developed an addendum to the April 19, 2000, IEP that provided the Student with a shortened instructional day. The Caretaker signed consent for this change on October 4, 2000. Neither the CCC Report nor the IEP addendum contains a justification for the shortened instructional day. The CCC convened again on October 31, 2000, at which time the CCC determined the student should attend school for the full instructional day. The Student, who was 18 years old by the time this CCC was convened, consented to the IEP returning him to a full instructional day.

4. The April 19, 2000, IEP with the addenda of October 2 and October 31, 2000, indicates that the Student will participate in special education instruction for 52% of the instructional day. The Student participates in general education for the remainder of the day. No general education teacher participated in the October 31, 2000, CCC meeting, and the school acknowledges that a general education teacher should have been present.

#### **CONCLUSIONS:**

1. Finding of Fact #2 indicates that the IEP was implemented as written. Therefore, no violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #3 reflects that the CCC convened on October 2, 2000, and proposed a shortened instructional day. Therefore no violation of 511 IAC 7-27-4(a)(4) is found.
3. Finding of Fact #3 indicates that, although the Caretaker was not present at the October 2, 2000, CCC meeting, she subsequently consented to the proposed change in the Student's placement resulting from the shortened instructional day. Therefore, no violation of 511 IAC 7-27-5(d) is found.
4. Finding of Fact #3 reflects that the CCC proposed and the Caretaker consented to a shortened instructional day for the Student as a result of the October 2, 2000, CCC meeting. However, the IEP/Addendum form did not contain any justification for the Student's shortened instructional day. Therefore, a violation of 511 IAC 7-21-3(c) is found.
5. Finding of Fact #4 reflects that a general education teacher did not participate in the October 31, 2000, CCC meeting. Therefore, a violation of 511 IAC 7-27-3(a)(3) is found.

**The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

#### **CORRECTIVE ACTION:**

The New Albany-Floyd County Consolidated Schools shall:

1. Send a memorandum to all appropriate personnel advising them of the requirements specified in 511 IAC 7-21-3(c) and 511 IAC 7-27-3(a)(3). Submit a copy of the memorandum to the Division no later than December 8, 2000, with a listing of all personnel (name and title) to whom the memorandum was sent.
2. Submit to the Division no later than December 8, 2000, an assurance statement that indicates the school will ensure a general education teacher will attend all future CCC meetings for students who are or may be participating in the general education environment.